

California Cigarette and Tobacco Products Licensing Act of 2003

(California Business and Professions Code section 22970 et seq.)

Application and Certification for Manufacturer/Importer License

**CORPORATION, LIMITED LIABILITY COMPANY (LLC),
ORGANIZATION, PARTNERSHIP OR INDIVIDUAL**

CALIFORNIA CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 • CALIFORNIA CIGARETTE AND TOBACCO

PRODUCTS LICENSING ACT OF 2003 • CALIFORNIA CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 • CAROLE MIGDEN

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BOE-400-LMI (11-03)

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Sacramento

Frequently Asked Questions

What is the California Cigarette and Tobacco Products Licensing Act of 2003?

On October 12, 2003, the State of California enacted the Cigarette and Tobacco Products Licensing Act of 2003 (Assembly Bill 71 [Chapter 890, Statutes 2003]) which establishes a statewide licensing program, under Division 8.6 (commencing with section 22970) of the California Business and Professions Code. The Act imposes licensing requirements on all retailers, wholesalers, and distributors of cigarettes and tobacco products and all manufacturers and importers of cigarettes.

Who is required to obtain and maintain a Manufacturer/Importer License?

In accordance with the Act, commencing January 1, 2004, every manufacturer and importer is required to obtain and maintain a license from the State Board of Equalization (Board) in order to engage in the sale of cigarettes in California.

What are the requirements to obtain and maintain a Manufacturer/Importer License?

In order to be eligible for a license under this division, every manufacturer or importer shall do all of the following:

1. Submit to the Board a list of all brand families that it manufactures or imports.
2. Update the list of all brand families that it manufactures or imports whenever a new brand or additional brand is manufactured or imported, or a listed brand is no longer manufactured or imported.
3. Consent to jurisdiction of the California courts for the purpose of enforcement of the Act, appoint a registered agent for service of process in this state and identify the registered agent to the Board.

4. Certify, both at the time the license is granted and annually thereafter, that all packages of cigarettes manufactured or imported and distributed in this state fully comply with subdivision (b) of section 30163 of the Revenue and Taxation Code, and that the cigarettes contained in those packages are the subject of filed reports that fully comply with all requirements of the federal Cigarette Labeling and Advertising Act (15 U.S.C. section 13355a et seq.) for the reporting of ingredients added to cigarettes.
5. In addition, if the manufacturer or importer is a "tobacco product manufacturer" as defined in subdivision (i) of section 104556 of the Health and Safety Code, it must certify to the Board that it is a "participating manufacturer" as defined in subsection II(jj) of the Master Settlement Agreement (MSA), or is in full compliance with paragraph (2) of subdivision (a) of section 104557 of the Health and Safety Code.

Will I need to apply for any other permits?

You may need to obtain a seller's permit from the Sales and Use Tax Department or a distributor's permit from the Excise Taxes and Fees Division before we can issue your Manufacturer/Importer license. For more information, call our Information Center at 800-400-7115 (see page 13). You may also need to comply with the MSA or related statutes. For more information, you may contact the Office of the Attorney General by telephone at 916-565-6486 or fax 916-323-0813, or by writing to the Office of the Attorney General, Tobacco Litigation and Enforcement Section: P.O. Box 944255, Sacramento, CA 94244-2550.

Frequently Asked Questions *(continued)*

Is the information on my application and certification available to the public?

Your records are generally covered by state laws that protect your privacy. However, some records are subject to public disclosure, such as the information printed on your license, names of owners or partners, your business address, and your license status. See also the disclosure information on page 14.

Why do you need to verify my Social Security and driver license numbers?

We need these numbers to ensure the accuracy of the information you provide and to protect you against fraudulent use of your identification numbers. As explained on page 5 (shaded box), if your Social Security card is not readily available, you can provide other documentation.

What are my responsibilities as the holder of a Manufacturer/Importer license?

As a holder of a Manufacturer/Importer license you are prohibited from selling cigarettes to a distributor, wholesaler, importer, or any other person who is not licensed pursuant to the Act, or whose license has been suspended or revoked. See Sections III and IV of application and certification for listing of responsibilities for certification. As a licensed manufacturer/importer, you must (1) maintain accurate and complete records relating to the sale of your cigarette products and (2) retain certain purchase records and (3) include specific information on each invoice for sale. For specific requirements, please see California Business and Professions Code sections 22979.4, 22979.5, and 22979.6.

As of January 1, 2004, failure to maintain records and include certain information on invoices is punishable as a misdemeanor, punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment.

- *You must provide identification numbers.*

You are required to provide certain identification numbers to ensure the accuracy of information provided and to protect you against fraudulent use of your identification numbers. See the disclosure information on page 14 of this packet.

- *You must furnish all the requested information on the application and certification.*

If you do not provide the information required on the application and certification form, we may not be able to register you or issue your license. In addition, the law provides penalties for persons furnishing fraudulent information. Any person who signs a statement pursuant to this application and certification that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor.

- *You must notify us if you move, sell or change ownership of your business.*

Your license is valid only for the type of entity and location specified on it. You must notify us of any change in ownership or location. You must also notify us immediately, in writing, if you discontinue business in order to make arrangements to surrender your license.



How Do I Apply for a Manufacturer/Importer License?

Message from the Executive Director

We appreciate the fact that as the operator of a business, you are busy and have many responsibilities. You are responsible for income tax payments and for a variety of other obligations, such as payroll taxes, insurance, and employee benefits.

For that reason, we want to make it as easy as possible for you to work with us. As you can see on page 13, we provide many services to help you with your questions.

If you are unable to find the answers you need, please call our Information Center. Our trained representatives will be glad to help.

Step 1: Make Sure You Have the Documents You Need to Send With Your Application and Certification

You will need to send us photocopies of certain documents with your application and certification. Please read the short checklist in the shaded box on the next page. If you don't have the documents you need, please call our Information Center at 800-400-7115 (listen for "other taxes" and "excise taxes").

Step 2: Complete Your Application and Certification

Fill out the application and certification on pages 7 through 9. Be sure to refer to the "Tips" on page 5 and to fill out both sides of the application and certification. If you need any help filling out the form or have questions, please call our Information Center.

Step 3: Send in Application and Certification Support Documents for Processing

Make a copy of your completed application and certification for your files, then mail the original application and certification to: Excise Taxes and Fees Division, State Board of Equalization, P.O. Box 942879, Sacramento, California 94279-0056. Please be sure to sign and date your application and certification and to include copies of all required documents. We cannot process your application and certification until it is complete.

Step 4: After We Review Your Application and Certification

We will review your application and certification and either issue the license or notify you if the license cannot be issued for any reason.

INFORMATION CENTER

800-400-7115

FOR TDD ASSISTANCE

From TDD phones: 800-735-2929

From voice phones: 800-735-2922

REQUIRED DOCUMENTS

You must include *photocopies* of the following documents with your completed and signed application and certification form:

- ☐ Copy of corporate articles of incorporation or LLC charter.
- ☐ Copy of partnership agreement.
- ☐ Document indicating that the person signing your application is authorized to do so (see "Section IV: Certification" at right).

For partners, officers, members, etc., listed on the application:

- ☐ Driver license or state ID card.
- ☐ Social Security card or other document that shows the Social Security number (paycheck stub, preprinted income tax label, or W-2 form) or a Mexican voter registration card.

For out-of-state or foreign corporations or LLCs

- ☐ *Certificate of Qualification* issued by the California Secretary of State.

You may also wish to include the following:

- ☐ *Power of Attorney* form, (BOE-392), if you wish to designate someone to act on your behalf. You may obtain a copy from our Internet site or Information Center (see page 13).

Tips for Filling Out Your Application and Certification

Please write or print neatly. Be sure to complete all sides of the forms and to initial, sign and date them.

Section I: Ownership Information

Items 1 through 10: Ownership Information

Check your type of ownership and provide names and personal information for the partners, officers, LLC members, managers, etc. If there are more than four officers or principals, please provide additional information on a separate sheet of paper. Corporations and LLCs must enter their corporation number and state of incorporation. See required document list at left.

Items 9 and 10: Driver license and Social Security Number

You must provide this information and copies of specified documents, as listed at left, for all partners, officers, LLC members, managers, etc.

Section II: Business Information

Item 2: Business Address

Enter the address of your physical location here. Do not enter a Post Office box, mailing service, or an agent or bookkeeper address.

Section III: Requirements to Submit and Update Schedule of Brand Family Names

Complete the attached Schedule of Brand Family Names (BOE-400-LMI2). Make a copy of your completed schedule for your files, then mail the original with your application and certification.

Section IV: Certification

A corporate or organization officer or LLC member or manager who is authorized to act for your business, or an authorized agent, must sign. Partners must all sign. If one partner signs, you must attach an authorization signed by all general partners. Corporations must attach a corporate resolution authorizing the officer to sign. LLCs must attach the articles of organization which indicate whether a manager can sign or whether members have authority to act for the LLC. If an agent signs, you must attach a properly completed power of attorney form or document (see shaded box at left).

APPLICATION AND CERTIFICATION FOR MANUFACTURER/IMPORTER CORPORATION, LIMITED LIABILITY COMPANY (LLC), ORGANIZATION, PARTNERSHIP OR INDIVIDUAL**SECTION I: OWNERSHIP INFORMATION**

1. PLEASE CHECK TYPE OF OWNERSHIP

- ☐ Corporation ☐ Limited Liability Company (LLC)
- ☐ Partnership ☐ Individual
- ☐ Other _____

Photocopies of
Driver License and Social
Security card are required

FOR BOARD USE ONLY

TAX	OFFICE	NUMBER
	ET	

2. ENTER FULL CORPORATE, LIMITED LIABILITY COMPANY (LLC), OR ORGANIZATION NAME

3. FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)

4. CALIFORNIA CORPORATE OR LLC NUMBER/STATE OF INCORPORATION OR ORGANIZATION

Each owner, corporate officer, or principal must complete lines 5 through 10.***If needed, please attach additional sheet(s) to provide the information requested in this application.***

(CHECK APPROPRIATE TITLE)	<input type="checkbox"/> President <input type="checkbox"/> Partner <input type="checkbox"/> Individual <input type="checkbox"/> Other _____	<input type="checkbox"/> Vice President <input type="checkbox"/> Partner <input type="checkbox"/> Individual <input type="checkbox"/> Other _____	<input type="checkbox"/> Secretary <input type="checkbox"/> Partner <input type="checkbox"/> Individual <input type="checkbox"/> Other _____	<input type="checkbox"/> Treasurer <input type="checkbox"/> Partner <input type="checkbox"/> Individual <input type="checkbox"/> Other _____
5. FULL NAME (first, middle, last)				
6. RESIDENCE ADDRESS (enter full address including zip code)				
7. TELEPHONE NO. (residence)	()	()	()	()
8. DAYTIME TELEPHONE NO.	()	()	()	()
9. SOCIAL SECURITY NO.				
10. DRIVER LICENSE NO., STATE OF ISSUE, & DATE OF BIRTH				

SECTION II: BUSINESS INFORMATION

1. BUSINESS OR TRADE NAME (DBA if any)		BUSINESS TELEPHONE NUMBER ()	
2. BUSINESS ADDRESS (do not list PO Box or mailing service)		CITY	STATE ZIP CODE
3. MAILING ADDRESS (if different from No. 2 above)		CITY	STATE ZIP CODE
4. NAME OF BOOKKEEPER/ACCOUNTANT	ADDRESS	TELEPHONE NUMBER ()	
5. NAME OF REGISTERED AGENT FOR RECEIPT OF SERVICE OF PROCESS IN THIS STATE	ADDRESS	TELEPHONE NUMBER ()	
6. NAMES OF CORPORATE BANKS, SAVINGS AND LOANS, CREDIT UNIONS	ADDRESS	ACCOUNT NUMBER	TYPE OF ACCOUNT
7. PARENT CORPORATION (if any)	ADDRESS		
8. OTHER ACCOUNT NUMBERS ISSUED TO YOU BY THE BOARD			
9. BUSINESS RECORDS WILL BE MAINTAINED AT:			

SECTION III: REQUIREMENT TO SUBMIT AND UPDATE SCHEDULE OF BRAND FAMILY NAMES

Pursuant to Chapter 4 of the California Business and Professions Code (commencing with section 22979), in order to be eligible for obtaining and maintaining a license, a manufacturer or importer must submit to the Board a list of all brand families that they manufacture or import.

Please complete and submit with your application and certification, the Schedule of Brand Family Names, form BOE-400-LMI2 found on page 11.

— tear at perforation —

SECTION IV: CERTIFICATION FOR MANUFACTURER/IMPORTER LICENSE

On behalf of the above manufacturer or importer, the undersigned certifies the following:

1. All of the information contained in the completed Application and Schedule of Brand Family Names is true and correct, current, and accurate.

Initial: _____ Date: _____

2. If the applicant is a "tobacco product manufacturer" as defined in subdivision (i) of section 104556 of the Health and Safety Code, the applicant certifies it is one of the following (check appropriate box):

☐ A "participating manufacturer" as defined in subsection II(jj) of the "Master Settlement Agreement" (MSA),

OR

☐ Is in full compliance with paragraph (2) of subdivision (a) of section 104557 of the Health and Safety Code.

Initial: _____ Date: _____

3. Applicant consents to jurisdiction of the California courts for the purpose of enforcement of the California Cigarette and Tobacco Products Licensing Act of 2003 and has appointed a registered agent for service of process.

Initial: _____ Date: _____

4. Applicant certifies that all packages of cigarettes it manufactures or imports and that are distributed in this state fully comply with subdivision (b) of section 30163 of the Revenue and Taxation Code, and that the cigarettes contained in those packages are the subject of filed reports that fully comply with all requirements of the federal Cigarette Labeling and Advertising Act (15 U.S.C. Sec. 13355a et seq.) for the reporting of ingredients added to cigarettes.

Initial: _____ Date: _____

5. Applicant certifies that it will maintain purchase records, sales records, and any other records required by the Board for one year at the premises identified in the license and make the records available for inspection by the Board or a law enforcement agency for four years, as required in California Business and Professions Code sections 22979.4 and 22979.5. Failure of a manufacturer/importer to comply with these sections shall be a misdemeanor subject to penalties and fines pursuant to California Business and Professions Code section 22981.

Initial: _____ Date: _____

6. Applicant certifies that it shall include the following information on each invoice for the sale for distribution, wholesale, or retail sale of cigarettes pursuant to California Business and Professions Code section 22979.6.

- (1) The name, address, and telephone number of the manufacturer/importer.
- (2) The license number of the manufacturer/importer as provided by the Board.
- (3) The name, address, and license number of the person to whom cigarettes or tobacco products are sold.
- (4) An itemized listing of the cigarettes or tobacco products sold.
 - (a) Each invoice for the sale of cigarettes or tobacco products shall be legible and readable.
 - (b) Failure to comply with this section shall be a misdemeanor subject to penalties and fines pursuant to California Business and Professions Code section 22981.

Initial: _____ Date: _____

SECTION IV: CERTIFICATION FOR MANUFACTURER/IMPORTER LICENSE (continued)

7. Applicant understands and acknowledges that under California Business and Professions Code section 22980.1, no manufacturer shall sell cigarettes to a distributor, wholesaler, importer, or any other person who is not licensed or whose license has been suspended or revoked. Failure to comply with this section shall be a misdemeanor subject to penalties and fines pursuant to California Business and Professions Code section 22981.
- Initial: _____ Date: _____
8. Applicant understands and acknowledges that under California Business and Professions Code section 22979.7, in addition to any other civil or criminal penalty provided by law, upon finding that a manufacturer or importer has violated any provision of the California Cigarette and Tobacco Products Licensing Act of 2003, the Board may take the following actions:
- (a) In the case of the first offense, the Board may revoke or suspend the license or licenses of the manufacturer or importer pursuant to the procedures applicable to the revocation of a license set forth in section 30148 of the Revenue and Taxation Code.
 - (b) In the case of a second or any subsequent offense, in addition to the action authorized under subdivision (a), the Board may impose a civil penalty in an amount not to exceed the greater of:
 - (1) Five times the retail value of the cigarettes or tobacco products defined as cigarettes under this section, or
 - (2) Five thousand dollars (\$5,000).
- Initial: _____ Date: _____

CERTIFICATION

I certify that all the information provided in this application is true and accurate and I understand that any person who asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than five thousand dollars (\$5,000), or both the imprisonment and the fine.

This form must be signed by a corporate officer, LLC member or manager, or an authorized agent, or partner. For a partnership, attach an authorization signed by all general partners; for a corporation, attach a corporate resolution; and for a LLC, attach the articles of organization which authorized the individual who signs below to certify this application. If signed by an authorized agent, a properly completed power of attorney must be attached to this application.

Note: This document must also be signed and dated in front of an authorized notary public, who also signs as a witness.

SIGNATURE	TITLE
NAME (typed or printed)	DATE

Subscribed and sworn to before me on this date: _____
City of: _____

SIGNATURE OF NOTARY PUBLIC		COMMISSION EXPIRES
FOR BOARD USE ONLY		FURNISHED TO APPLICANT
REPORTING BASIS		RETURNS/FORMS <input type="checkbox"/> Pamphlet 4 _____ _____ _____ _____
<input type="checkbox"/> SECURITY	RECEIVED BY:	
APPROVED BY		
REMOTE INPUT DATE	BY	
<input type="checkbox"/> PERMIT/LICENSE ISSUED	DATE	

MANUFACTURER/IMPORTER NAME

ADDRESS

Pursuant to Chapter 4 of the California Business and Professions Code (commencing with section 22979), in order to be eligible for obtaining and maintaining a license, a manufacturer or importer must submit to the Board a list of all brand families that they manufacture or import.

Please list your Brand Family Names below:

(use additional pages if necessary)

The reporting company agrees to update the schedule and provide a copy to the State Board of Equalization whenever a new or additional brand is manufactured or imported by the reporting company, or a listed brand is no longer manufactured or imported by the reporting company as required by the California Cigarette and Tobacco Products Licensing Act of 2003 at section 22979 of the California Business and Professions Code. To obtain additional copies of this form, please call our Information Center at 800-400-7115.

NAME OF AUTHORIZED AGENT (typed or printed)	TITLE
SIGNATURE OF AUTHORIZED AGENT	DATE

Where Can I Get Help?

If you have questions about how the California Cigarette and Tobacco Products License Act of 2003 applies to your business operations, please take advantage of the resources listed below.

INFORMATION CENTER

800-400-7115

FOR TDD ASSISTANCE

From TDD phones: 800-735-2929

From voice phones: 800-735-2922

Customer service representatives are available from 8 A.M. through 5 P.M., Monday-Friday, except State holidays.

Fax-Back Service. Call 800-400-7115 to order fax copies of selected forms and notices. Choose the automated services fax option. This service is available 24 hours a day.

Translator Services. We can provide bilingual services for persons who need assistance in a language other than English.

INTERNET

www.boe.ca.gov

Additional information on the California Cigarette and Tobacco Product Licensing Act of 2003 may be obtained from our website, and from the 2003/04 legislative session at <http://www.leginfo.ca.gov>.

CALIFORNIA CIGARETTE AND TOBACCO PRODUCTS ACT OF 2003
APPLICATION AND CERTIFICATION FOR
MANUFACTURER/IMPORTER LICENSE PRIVACY NOTICE

Information Provided to the Board of Equalization

We ask you for information so that we can administer the California Cigarette and Tobacco Products Act of 2003 under Division 8.6 (commencing with section 22970) of the California Business and Professions Code. We will use the information to determine if you meet the requirements to obtain and maintain a cigarette manufacturer or importer license to sell cigarettes. You must provide all the information we request.

What happens if I don't provide the information?

If your application is incomplete, we may not issue your license. Penalties may also apply if you don't provide other information we request or that is required by law, or if you give us fraudulent information. In some cases, you may be subject to criminal prosecution.

Can anyone else see my information?

Your records are covered by state laws that protect your privacy. However, we may share information regarding your account with certain government agencies.

Under some circumstances we may release to the public the information printed on your permit or license, account start and closeout dates, and names of business owners or partners.

With your written permission, we can release information regarding your account to anyone you designate.

We may disclose information to the proper officials of the following agencies, among others:

- The Board shall, upon request, provide to the State Department of Health Services, the Office of the Attorney General, a law enforcement agency, and any agency authorized to enforce local tobacco control ordinances, access to the Board's database of licenses issued to manufacturers or importers for locations within the jurisdiction of that agency or law enforcement agency.

Can I review my records?

Yes. Please contact your closest Board office (see the white pages of your phone book). If you need more information, you may contact our Disclosure Officer in Sacramento by calling 916-445-2918. You may also want to obtain publication 58-A, *Inspecting and Correcting Your Records*. You may order a copy from our Information Center: 800-400-7115 or download it from the Internet: www.boe.ca.gov (look under "Forms, Publications, Reports & News").

Who is responsible for maintaining my records?

The Chief of the Excise Taxes and Fees Division, whom you may contact by calling 916-327-4208, or writing to the address shown.

Chief, Excise Taxes and Fees Division, MIC: 56
450 N Street
Sacramento, CA 95814

